

**REMARKS**

Claims 1-17 were examined in the Office Action mailed October 24, 2006.

The pending objections and rejections include:

- Objection to the Abstract as greater than 150 words.
- Objection to idiomatic English issues at Specification pages 26 and 30-31.
- Objection to claim informalities in claims 1, 5-8 and 10.
- Rejection of claim 16 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement, due to lack of description of a wood grain image in the Specification.
- Rejection of claims 1, 3 and 16 under 35 U.S.C. § 112, second paragraph, as indefinite for: claim 1: use of the phrase “fringe face”; claim 3: use of the phrase “broadening toward the end”; and claim 16: use of the phrase “image of the grain of wood.” (claim 1 also stands rejected as indefinite, however, the objected to portion is not indicated in the Office Action).
- Claims 1-4, 9-10 and 13-17 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Japanese Patent Publication No. JP 200295429 (“Kaneko”), in view of Japanese Patent Publication No. JP 5184314 (“Gonda”).
- Claim 5 stands rejected under § 103(a) as unpatentable over Kaneko and Gonda, further in view of Japanese Patent Publication No. JP 11290206 (“Imamura”).
- Claim 6 stands rejected under § 103(a) as unpatentable over Kaneko and Gonda, further in view of Japanese Patent Publication No. JP 410290673 (“Urashima”).
- Claims 7-8 stand rejected under § 103(a) as unpatentable over Kaneko and Gonda, further in view of U.S. Patent No. 6,054,698 to Mast (“Mast”).
- Claims 11-12 stand rejected under § 103(a) as unpatentable over Kaneko and Gonda, further in view of U.S. Patent No. 4,230,924 to Brastad (“Brastad”).

The foregoing amendments and following remarks respond to each of these objections and rejections.

1. **The Objections Have Been Addressed.** In accordance with the Examiner's helpful suggestions, the pending Abstract, Specification and Claim objections have been addressed by the foregoing amendments. Specifically, the Abstract has been amended to meet the 150 word limit, the three suggestions for amendment of the Specification have been made, and claims 1, 5-8 and 10 have been amended (in the case of claims 8 and 10, adding "wherein," rather than substituting "wherein" for the original "is used" in order to maintain proper sentence structure).

Reconsideration and withdrawal of the pending objections is respectfully requested.

2. **The Rejection Under § 112, First Paragraph.** Claim 16 stands rejected under § 112, first paragraph, as failing to comply with the written description requirement, due to lack of description of a wood grain image in the Specification. The Applicants have amended the paragraph bridging pages 15-16, which discussed application of imaging to the subject container, to include a reference to adding a wood grain image to the bottom portion. The amendment provides the desired Specification support, without addition of new matter.

Reconsideration and withdrawal of the pending § 112, first paragraph rejection of claim 16 is respectfully requested.

3. **The Rejections Under § 112, Second Paragraph.** Claims 1, 3 and 16 stand rejected under § 112, second paragraph, as indefinite for, in claim 1, use of the phrase "fringe face," in claim 3, use of the phrase "broadening toward the end," and in claim 16, use of the phrase "image of the grain of wood."

Claim 1 has been amended to recite “a peripheral part of the main body,” consistent with the terminology used to describe this part (reference label 6) at Specification page 21, lines 20-21.

Claim 3 has been amended to recite: “wherein a wall of each of the protruding parts of said main housing body tapers outward from a closed end of the protruding part toward an open end of the protruding part.”

Claim 16 has been amended to recite “a grain of wood.” The Applicants respectfully submit that as amended, these claims are comply with the requirements of § 112, second paragraph.

Reconsideration and withdrawal of the pending § 112, second paragraph, rejections is respectfully requested.

**4. The Amended Claims Are Patentable Over Kaneko and Gonda.**

The Applicants respectfully traverse the rejection of claims 1-4, 9-10 and 13-17 under 35 U.S.C. § 103(a) as unpatentable over Kaneko and Gonda, on the grounds that there is no suggestion or motivation to combine these references, and that these references fail to teach or suggest all of the features of the present invention recited in claim 1 for which they are cited.

Claim 1 is directed to a container for housing frozen sushi consisting of shaped sushi-rice and sushi-neta (a piece of fish) such as nigiri-sushi and bo-sushi, wherein the container includes a main housing body having at least one sushi housing parts protruding upward matching the shape of the sushi, the main housing body being open downward, and a bottom cover which corresponding sushi retaining parts which can be engaged with the fringe face of

main housing body. The main housing body and bottom cover are made of material permeable to microwaves, and a microwave shielding film is formed (as presently amended) by metal evaporation on each of the protruding sushi housing parts where the sushi-neta portion is to be positioned.<sup>1</sup> Thus, with the present invention, frozen sushi consisting of a sushi-neta portion and a rice portion can be unfrozen by the remaining heat of the unfrozen sushi-rice and the retention effect of the sushi retaining part and housing part. Therefore, it is possible to serve sushi in the most preferable state in which the temperature of the sushi-rice portion is at body temperature and the sushi-neta is cold without undergoing thermal degradation.

The Kaneko reference teaches a packaging container for the display and sale of *fresh* sushi (*i.e.*, a container that can prevent the rolling and displacement of the sushi in the container). This container is not suited for housing *frozen* sushi. In short, the technical field is different. According to Kaneko, the container is put into a refrigeration display case. However, the container of the present invention is related to a container for frozen sushi, which is stored or displayed in a freezer. Refrigeration is different from freezing. In a refrigerator (cold storage), a product is kept cold at the temperature range from 0°C to 5°C in a fresh state, *i.e.*, not a frozen state, for only one day. In a freezer, a product is kept frozen at the temperature range from -20°C to -50°C, so that it can be stored for over several months. Thus, Kaneko does not disclose or suggest a container

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<sup>1</sup> Conforming amendments canceling claims 11-12 (directed to metal evaporation) have been made, without prejudice to the subject matter therein.

suitable for use in freezing.

The Gonda reference is directed is related to a method for thawing frozen sushi in which a sushi-neta portion of each sushi is covered with a material capable of shielding or attenuating penetration by electron beams, such that when the frozen sushi is placed in a microwave oven, the cooked rice part is thawed, heated and regulated to 10-40°C, followed by stopping the microwave oven and allowing the sushi-neta portion to be thawed with the remaining heat of the cooked rice part.

According to Gonda, the container shown in Fig. 2(a) is made from a material that has the thickness of 0.2 micrometers, the material being constructed by sandwiching aluminum powders in between polyvinyl, and sushi in the container is heated with the 200W microwave oven with the sushi-neta portion contacting the *bottom* of the container. Indeed, while Gonda refers generally to “covering” the sushi-neta portion with a material capable of shielding or attenuating the penetration of an electron beam,<sup>2</sup> the Gonda figures teach attenuating incident energy which reaches the sushi-neta *after passing through the cooked rice part*.

The Examiner’s attention is respectfully drawn to Gonda Figs. 3 and 4, showing the film located over the openings, and the sushi-neta portion position at the *closed* end of the protrusions. In the present invention, microwave energy is permitted to directly impinge on the cooked rice portion, which the recited

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<sup>2</sup> See, e.g., attached English translation of Gonda paragraphs [0011]-[0014], discussing generally suitable covering materials.

evaporated metal shielding layer is located in a targeted manner, directly adjacent to the sushi-neta portion, thereby minimizing or precluding sushi-neta irradiation, while leaving the cooked rice substantially open to irradiation. In contrast, Gonda teaches nearly the opposite approach – *the cooked rice portion is shielded from the covering direction*, while there is no suggestion of any shielding of the sushi-neta from direct irradiation coming from the remaining bottom or side directions, whether opening face up (Fig. 3a) or open face down (Fig. 3b). Accord Gonda example 2 (the sushi-neta portion contacting the bottom part of the container which material is crockery (*i.e.*, non-irradiation-attenuating) with a thickness of 3 mm). Thus, Gonda does not teach or suggest a container for shielding only irradiation of the sushi-neta portion, *i.e.*, a microwave shielding film is formed on the surface of the sushi housing part at least in the part facing the ingredients, a bottom cover has a sushi retaining part to support the sushi-rice, the bottom cover being able to be fitted in to the main housing body in the fringe part of the main housing body having no microwave shielding film formed on the surface thereof, and microwaves can penetrate the bottom cover to reach the sushi-rice.<sup>3</sup>

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<sup>3</sup> Other Gonda embodiments similarly fail to teach or suggest the features of the present invention. For example, Gonda claims 6 and 7 provide for covering the upper ends of the side parts and cooked rice part positioned at the other side of sushi-neta portion. By this structure, each of rice portion and sushi-neta portion are contained separately in a container for housing a rice part to be heated (a container made from an epoxy resin with a thickness of 0.5 mm shown in Fig. 2a) and a container for housing a sushi-neta portion (a container made from crockery with a thickness of 3 mm shown in Fig. 2b). This is not a container for housing frozen sushi having the sushi-neta portion and the rice portion formed in one piece. According to this embodiment, since the product has to be displayed in a condition that the container divides sushi-neta portion from rice portion, it does not look good. Moreover, when serving the sushi, the separate sushi-neta portion must be removed from the container and put on the rice portion, which is troublesome and introduces yet another opportunity for unsanitary handling.

As a further ground which distinguishes pending claim 1, the Applicants note that neither Kaneko nor Gonda provides any teaching or suggestion of the claim 1 approach to shielding, metal evaporation, which can be precisely and at efficient cost be located only where needed, at the portion of the container directly adjacent to the sushi-neta portion of the product (for example, Gonda teaches covering the entire surface of the container, and does so with a costly specialty film which requires both the fine distribution of an aluminum powder, and fixing of this powder between layers of film which must be bonded together).

The Remaining References and Claims: The Applicants respectfully traverse the remaining rejections based on Kaneko and Gonda, either because the claims depend from allowable claim 1, or because the remaining cited references fail to cure the deficiencies of Kaneko and Gonda. For example, Imamura, cited for teaching claim 5's housing arrangements, does not provide any teaching toward independent claim 1's irradiation shielding arrangements. Similarly, the Urashima reference, cited as teaching claim 6's sushi arrangements, also fails to provide a teaching or suggestion of the features of claim 1 not taught or suggested by Gonda.

With regard to claims 7-8, in addition to the above-noted failings of Kaneko and Gonda, claim 7 now recites an additional distinguishing feature. As amended, claim 7 recites a container for housing frozen roll-shaped maki-sushi which has ingredients in the center, the ingredients are surrounded by sushi-rice, and the outer surface of the sushi-rice is covered with a dried laver sheet, wherein the container comprises a main housing body having a sushi housing

part protruding upward in “a half-roll shape” and opened downward matching the shape of the upper circumference of the maki-sushi. A microwave shielding film is formed thereon so that the film has a plurality of interrupted portions along the cross-sectional circumference of the half-roll shaped part; a bottom cover having a sushi retaining part of half-roll shape to support the maki-sushi, the bottom cover being able to be fitted in to the main housing body in the fringe part of the main housing body, the bottom cover having no microwave shielding film formed thereon; and microwaves can penetrate the bottom cover and the interrupted parts of the microwave shielding film to reach the sushi-rice portion.

Thus, in a packed frozen sushi unit wherein the container for housing frozen maki-sushi according to claim 7 is used, maki-sushi is accommodated in the sushi housing part protruding upward in a half roll shape, then the bottom cover is fitted in to the main housing body in the fringe part of the main housing body to support the maki-sushi, and the maki-sushi is frozen in this state. The Mast reference neither addresses the features not taught or suggested by Kaneko and Gonda, not teaches amended claim 7's arrangements.

Finally, with respect to the rejection of claims 11-12 (now incorporated into amended claim 1) the Brastad reference teaches adding sheets of metallic material to a package *in order to increase the temperature of the immediately adjacent food* – in other words, Brastad teaches away from the present invention's *shielding*, instead teaching exactly the opposite, inclusion of metal in order to absorb enough energy to heat up and brown the surface of the food. *See, e.g., Brastad Abstract* (“When the food package is placed in a microwave oven,



some of the microwave energy passes through the wrapping sheet *so as to dielectrically heat* the food item, but a lesser amount of the microwave energy is converted into thermal energy by the metallic coating *so as to brown or crisp*en that portion of the food adjacent thereto.” (*i.e.*, all the energy heats *all* the food, with the food next to the metal layer receiving *extra*, concentrated heat)). In view of Brastad’s teachings, one of ordinary skill in the art would have found no suggestion of motivation to combine this reference with Kaneko and Gonda. For this additional reason, the subject matter of claims 11-12 (now amended claim 1) is patentable over the cited references.

For the foregoing reasons, the Applicants submit that the pending claims are patentable over the cited references under § 103(a). Accordingly, reconsideration and withdrawal of the pending § 103(a) rejections is respectfully requested.

### CONCLUSION

The Applicant respectfully submits that claims 1-10 and 13-17 are in condition for allowance. Entry of these amendments, and issuance of a Notice of Allowance for these claims is respectfully requested.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

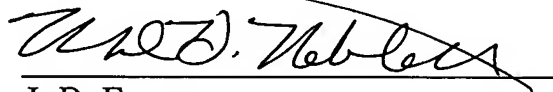
If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit

Serial No. 10/664,032  
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Respectfully submitted,

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A handwritten signature in dark ink, appearing to read "J.D. Evans", written over a horizontal line.

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[0011] For a material used for such a container, a material capable of shielding or attenuating the penetration of an electron beam, thereby preventing printing to the sushi-neta portion of sushi, will do. Generally, an insulating material corresponds to such material.

[0012] Concretely, all of crockery, a metallic oxide, a synthetic-resin ingredient, etc. can be used. (However, in order to resist heating which is caused by the exposure of an electron beam, thermosetting synthetic resin is more preferable than thermoplastic synthetic resin.)

[0013] However, the inventors confirmed that the thermoplastic material can be used as a material for the present invention by finding out the fact that: in the case of using thermoplastic synthetic material such as polyethylene and polypropylene, by sandwiching a metal part in between the materials, the shape of a container is maintainable, even if synthetic resin became soft somewhat due to the heating caused by the exposure of an electron beam.

[0014] And these materials are characterized in that it is thick enough to the extent that printing caused by the exposure of the electron beam does not occur, when the rice part of the sushi is heated to 10 degrees C - 40 degrees C by thawing and heating.